

**TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD**

vs.

**JOE JEFFREY ROBERTS
TX-1320506-G**

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**DOCKETED COMPLAINT NOS.
15-065 AND 15-157**

AGREED FINAL ORDER

On the 20 day of November, 2015, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Joe Jeffrey Roberts (the "Respondent").

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

FINDINGS OF FACT

1. Respondent is a Texas state certified general real estate appraiser who holds Certification number TX-1320506-G and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised multi-family residential real property located at 1029 East Hickory, Denton, Texas 76205 (the "Denton Property"), on or about August 8, 2014.
3. Thereafter, complaint number 15-065 was filed with the Board by a financial institution on or about November 3, 2014. A second complaint number 15-157, also involving the Denton Property, was filed with the Board by an appraisal management company on or about January 16, 2015. The Board investigated both complaints to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (the "Act") and 22 TEX. ADMIN. CODE CH. 153 and 155 (the "Rules").
4. The Board, in accordance with the mandate of TEX. GOV'T CODE ANN. CH. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved in these complaints, on or about November 18, 2014, and on June 5, 2015, respectively. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. After an extended period of delay (the lapse of several months), and repeated

correspondence requesting his response to the complaints and certain work file documentation, Respondent ultimately responded to each complaint and belatedly provided the requested documentation.

5. As a result of the Board's investigation into complaints 15-065 and 15-157, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Denton Property:

- a. USPAP Ethics Rule – Respondent misrepresented to his client that he inspected the Denton Property when he did not. When his client discovered the issue and confronted him, he continued to misrepresent to them that he had inspected the Denton Property and sent inaccurate pictures to further his misrepresentations of inspecting the Denton Property (inspection was required by his client's assignment conditions);
- b. USPAP Record Keeping Rule – Respondent failed to maintain the required documentation in his work file necessary to support his opinions and conclusions;
- c. USPAP Scope of Work Rule; 1-2(h) and 2-2(a)(vii) – Respondent failed to perform the scope of work necessary to develop credible results and misrepresented his scope of work in the appraisal report (including the fact that he did not inspect the Denton Property);
- d. USPAP Standards 1-2(f)-(g), 2-1(c), and 2-2(a)(xi) – Respondent failed to disclose all assumptions and hypothetical conditions clearly and accurately, particularly those related to using the Multiple Listing Service in lieu of commercial data sources given that the Denton Property is in a 4-unit apartment complex;
- e. USPAP Standards 1-2(e), 1-4(f), and 2-2(a)(iii) – Respondent failed to identify and describe the site, any improvements, any anticipated improvements or easements and restrictions adequately, including failing to disclose that the Denton Property encroaches on a neighboring tract of land;
- f. USPAP Standards 1-4(b) and 2-2(a)(viii) – Respondent failed to provide support for his exclusion of the cost approach, and failed to conduct a cost approach which should have been conducted as it was necessary for credible assignment results;
- g. USPAP Standards -1-1(a), 1-4(a), and 2-2(a)(viii) – Respondent failed to collect, analyze, verify and reconcile comparable sales data adequately and did not employ recognized methods in his sales comparison approach;
- h. USPAP Standards 1-4(c) and 2-2(a)(viii) – Respondent failed to collect, analyze, verify and reconcile comparable rental data or potential earnings capacity adequately and did not employ recognized methods and techniques in his income approach;

- i. USPAP Standards 1-5(b) and 2-2(a)(viii) – Respondent failed to analyze the prior sales history of the Denton Property;
- j. USPAP Standard 1-1(b) – Respondent failed to analyze significant and material information about a prior listing of the Denton Property; and,
- k. USPAP Standards 1-1(b)-(c) and 2-1(a) – Respondent produced a misleading appraisal containing substantial errors of omission or commission as detailed above that affected the appraisal and made it not credible.

6. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

CONCLUSIONS OF LAW

- 7. The Board has jurisdiction over these matters pursuant to the Act.
- 8. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).
- 9. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and material omissions of material fact.
- 10. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(24) and 153.24(6) by failing to provide requested documentation and work file materials for both complaint matters timely.
- 11. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that Respondent's state certification (TX-1320506-G) is hereby revoked for twenty-four (24) months, with this revocation being fully probated under the following terms and conditions:

- 1. **EDUCATION.** On or before May 17, 2016, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to

ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider;

- i. A minimum, 15 hour classroom course in the income approach.
2. **MENTORSHIP.** On or before February 17, 2016, Respondent shall complete four (4) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion;

- i. Four (4) hours of mentorship concerning the income approach.

3. **ADMINISTRATIVE PENALTY.** Respondent shall pay to the Board an administrative penalty of Two Thousand Dollars (\$2,000.00) via (20) twenty, monthly installment payments of \$100.00, by cashier's check or money order.

Payments shall timely be delivered to the Board based on the following payment schedule:

- a) \$100.00 on or before December 5, 2015;
- b) \$100.00 on or before January 5, 2016;
- c) \$100.00 on or before February 5, 2016;
- d) \$100.00 on or before March 5, 2016;
- e) \$100.00 on or before April 5, 2016;
- f) \$100.00 on or before May 5, 2016;
- g) \$100.00 on or before June 5, 2016;
- h) \$100.00 on or before July 5, 2016;
- i) \$100.00 on or before August 5, 2016;
- j) \$100.00 on or before September 5, 2016;
- k) \$100.00 on or before October 5, 2016;

- l) \$100.00 on or before November 5, 2016;
 - m) \$100.00 on or before December 5, 2016;
 - n) \$100.00 on or before January 5, 2017;
 - o) \$100.00 on or before February 5, 2017;
 - p) \$100.00 on or before March 5, 2017;
 - q) \$100.00 on or before April 5, 2017;
 - r) \$100.00 on or before May 5, 2017;
 - s) \$100.00 on or before June 5, 2017; and,
 - t) \$100.00 on or before July 5, 2017.
4. **COMPLIANCE WITH PRIOR ORDER.** On or before November 19, 2016, Respondent shall comply with all of the terms of the previous Agreed Final Order for complaint #13-187; and,
5. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

ACKNOWLEDGMENT AND WAIVER

RESPONDENT'S FAILURE TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS SPECIFIC, STATED DUE DATES, SHALL RESULT IN THE AUTOMATIC REVOCATION OF PROBATION AND THE REVOCATION IMPOSED IN THIS AGREED FINAL ORDER SHALL BE EFFECTIVE ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION.

ANY SUCH REVOCATION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as res judicata, precluding any re-litigation of those claims and

extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE

Respondent is solely responsible for timely delivery to the Board of all documents necessary for compliance of this Agreed Final Order. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: compliance.talcb@talcb.texas.gov; (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing and Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, Texas 78701.

EXECUTION

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

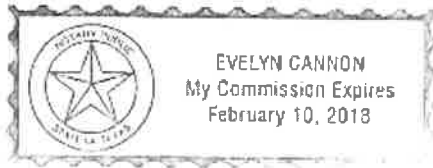
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

RESPONDENT

Signed this 8 day of Oct, 2015.

Joe Jeffrey Roberts
Joe Jeffrey Roberts

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 8th day of October, 2015, by Joe Jeffrey Roberts, witnessed by my hand and official seal.



Evelyn Cannon
Notary Public's Signature

STANDARDS AND ENFORCEMENT SERVICES DIVISION

Signed by the Standards and Enforcement Services Division this 9th day of OCTOBER, 2015.



Troy Beaulieu, Attorney
Director, Standards and Enforcement Services Division
Texas Appraiser Licensing and Certification Board

COMMISSIONER

Signed by the Commissioner this 12 day of Oct, 2015.



Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

Approved by the Board and Signed this 20 day of November, 2015.



Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board